

8 November 1973

STATINTL

MEMORANDUM FOR: [REDACTED]

SUBJECT : Murphy Commission

1. I delivered the DCI response to the Murphy Commission letter this morning. They asked if I could have prepared a generalized "wiring diagram" of the Community for them to send to the Commissioners. I have graphics working up a modified version of one I found in a Harry H. Ransom book on intelligence, and will deliver it on Friday, 9 November.

2. The DCI has asked me to express to Fisher Howe his desire to bring along [REDACTED] on 19 November. I did so, and Howe did not reject the idea out of hand. Nonetheless, in the context of his explanation of how the Commission works and what the Commissioners expect, I think Mr. Colby should appear alone.

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3. Howe stressed first that the Commission's hearings were extremely informal. He said several times that he feared Mr. Colby would view them as an "investigation," and that this was not at all the way in which the Commission has acted. He said that it is unlikely that any detailed questions will be asked beyond those relating to how much effort (\$ or people) was expended on broad categories of activity such as collection and production. He said that the Commissioners really want an informal discussion with Mr. Colby alone about how intelligence supports policy and about where it fits in the organization of the government for that purpose. Howe stressed that expert witnesses and lots of backup notebooks would interfere with the general approach of the Commission, and asked that I make certain that Mr. Colby understood that no one was going to cross-examine him. He suggested that when a matter was more in the bailiwick of Defense, that Mr. Colby say so and leave the matter for the Commission to pursue with [REDACTED] and [REDACTED]

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4. Howe was willing to accept the DCI statement as a comprehensive response for now, and to follow it up with questions during or after the 19 November hearings. If there are matters which they specifically want to cover in more detail, they will let us know so that we can prepare Mr. Colby.

Dept of State review(s) completed.

NSC Referral Not Required

5. The Commission's witness schedule is a bit up in the air now because of Mr. Colby's proposal to bring along [redacted] and [redacted]. They would like to know as soon as possible whether he will consent to come alone (with one or two staff if he wishes), so that they can firm up their program. Again, in the context of what I heard Fisher Howe say, I think Mr. Colby would actually be better off on his own before the Commission.

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/s/

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P.S.

I've passed these thoughts orally to John Warner. He suggests that General Graham should bring this up at the DCI morning meeting on 9 November.

DCI/IC/CCG/[redacted]  
Distribution:  
0 - Addressee  
1 - CCG Reading  
1 - CCG Subject  
1 - GF Chrono

STATINTL

**DEPARTMENTS OF STATE, JUSTICE, COMMERCE, THE  
JUDICIARY, AND RELATED AGENCIES APPROPRIA-  
TIONS FOR FISCAL YEAR 1974**

**THURSDAY, JULY 12, 1973**

**U.S. SENATE,  
SUBCOMMITTEE OF THE COMMITTEE ON APPROPRIATIONS,  
Washington, D.C.**

The subcommittee met at 9:15 a.m., in room 114, Everett McKinley Dirksen Office Building, Hon. John O. Pastore [chairman] presiding.  
Present: Senators Pastore, Mansfield, Hruska, and Fong.

**COMMISSION ON THE ORGANIZATION OF THE GOVERN-  
MENT FOR THE CONDUCT OF FOREIGN POLICY**

**STATEMENT OF HON. MIKE MANSFIELD, U.S. SENATOR FROM  
MONTANA**

**ACCOMPANIED BY:**

**HON. JAMES B. PEARSON, U.S. SENATOR FROM KANSAS**

**HON. WILLIAM B. SPONG, JR., FORMER U.S. SENATOR FROM  
VIRGINIA**

**BUDGET REQUEST**

Senator PASTORE. The request for the Commission is contained in S. Doc. 93-24 in the amount of \$1,100,000, for the Commission on the Organization of the Government for the Conduct of Foreign Policy. This Commission was established pursuant to Public Law 92-352, approved July 13, 1972. I will insert in the record a copy of the estimate and the supporting justification.

[The estimate and justification follows:]

(2127)

COMMISSION ON THE ORGANIZATION OF THE GOVERNMENT FOR THE CONDUCT OF  
FOREIGN POLICY BUDGET AMENDMENT FISCAL 1974 S. Doc. 93-24

Budget appendix page	Heading	Request pending	Proposed amendment	Revised request
958	Salaries and expenses ..... (Insert the following paragraph under this heading.) For necessary expenses of the Commission on the Organization of the Government for the Conduct of Foreign Policy, authorized by Title VI of the Foreign Relations Authorization Act of 1972, \$1,100,000 of which not to exceed \$6,000 may be expended for official reception and representation expenses.		\$1,100,000	\$1,100,000

This study commission was authorized by the Foreign Relations Authorization Act of 1972 (Public Law 92-352). The Commission will study and submit recommendations by June 30, 1975, to the President and the Congress on the following aspects of the Nation's foreign policy system: executive branch organization, executive and legislative branch relations; coordination and control among agencies; abolition of unnecessary functions; and other measures to promote peace, economy, efficiency, and improved administration of foreign policy.

COMMISSION ON THE ORGANIZATION OF THE GOVERNMENT  
FOR THE CONDUCT OF FOREIGN POLICY

JUSTIFICATION FOR FISCAL YEAR 1974 BUDGET ESTIMATES

1. Authority of the Commission

The Foreign Relations Authorization Act of 1972 (PL 92-352, July 13, 1972) established a study commission to submit to the Congress and the President findings and recommendations "to provide a more effective system for the formulation and implementation of the Nation's foreign policy."

2. Purpose of the Commission

In describing the duties of the Commission the law states that "the Commission shall study and investigate the organization, methods of operation, and powers of all departments, agencies, independent establishments, and instrumentalities of the United States Government participating in the formulation and implementation of United States foreign policy." In carrying out its responsibilities the Commission may make recommendations with respect to the re-organization of the departments and agencies, more effective arrangements between executive branch and Congress, improved procedures among departments and agencies, the abolition of services, activities and functions not necessary to the efficient conduct of foreign policy, and "other measures to promote peace, economy, efficiency and improved administration of foreign policy."

The report of the Commission, which is to be submitted by June 30, 1975, may include "proposed constitutional amendments, legislation, and administration action considered appropriate in carrying out its duties." The Commission, in performing its responsibilities, is authorized to hold hearings, subpoena witnesses and secure directly information from any executive department or agency.

3. Membership and Functioning of the Commission

The Commission is composed of twelve members, four each to be appointed by the President of the Senate, the Speaker of the House and the President. The members are:

Appointed by the President of the Senate

The Honorable Mike Mansfield  
United States Senate

The Honorable James B. Pearson - Vice Chairman  
United States Senate

Mrs. Charles W. Englehard, Jr.  
Far Hills, New Jersey

Mr. Frank C. P. McGlinn  
Executive Vice President  
Fidelity Bank  
Philadelphia, Pennsylvania

Appointed by the Speaker of the House

The Honorable Clement J. Zablocki  
House of Representatives

The Honorable William S. Mailliard  
House of Representatives

Dr. Stanley P. Wagner  
President, East Central State College  
Ada, Oklahoma

Dr. Arend D. Lubbers  
President, Grand Valley State College  
Allandale, Michigan

Appointed by the President

The Honorable Robert D. Murphy - Chairman  
Corning Glass International  
New York, New York

The Honorable William J. Casey  
Under Secretary for Economic Affairs  
Department of State

Mrs. Anne Armstrong  
Counselor to the President  
White House

Dr. David M. Abshire  
Chairman, Center of Strategic and International Studies  
Georgetown University

Francis O. Wilcox is the Executive Director of the Commission and Fisher Howe the Deputy Executive Director. Former Senator William B. Spong, Jr. is General Counsel to the Commission.

The Commission has its offices at 2025 M Street, N.W., Washington, D. C. 20506.

Presidential members were appointed in March of this year and the Commission held its first meeting on April 16th. An Executive Director and General Counsel were selected and the Commission began functioning on May 1st. The Commission met again on May 16th, agreed upon a schedule of inquiry to fulfill its mandate, authorized the Executive Director to assemble a staff and discussed its budget requirements. The Commission met again June 25th and will meet monthly for the duration of its work. The budget estimates attached were prepared with the assistance of the General Services Administration and the Office of Management and Budget. The budget contemplates a core staff of 23, provides funds for much of the Commission's

*Dean & Asst.  
Dean of Johns  
Hopkins School  
for Advanced  
Intl.  
Studies*

research to be done by contract, and designates funds for members to visit and study the operations of overseas establishments. The Senate appropriated \$1,000,000 for Fiscal Year 1973, based upon estimates prepared by GSA for the Senate Foreign Relations Committee. This amount was reduced to \$200,000 by the House when it became apparent that the Commission would not be in operation until late in the fiscal year.

The mandate given this Commission by Congress is the broadest of any previous foreign policy study. It directs the Commission's inquiry to extend beyond traditional foreign policy agencies such as the State Department, Agency for International Development, and the United States Information Agency -- to study and investigate the organization, methods of operation, and powers of all departments, agencies, independent establishments, and instrumentalities of the United States Government participating in the formulation and implementation of United States foreign policy. There are over 40 such departments and agencies, and the law establishing the Commission also directs a study of the organization of Congress for foreign policy matters. Moreover, the Commission is directed to make recommendations for more effective arrangements between the Executive Branch and the Congress.

4. Personnel

The Commission, to date, has hired 11 employees and expects to be up to the estimated level of 23 positions within the next few weeks, dependent upon assurance of adequate funding.

5. Estimated Requirements for Fiscal Year 1974

The budget request is for \$1,100,000 in anticipation of financing full-scale operations of the Commission for Fiscal Year 1974. It is believed this sum will be adequate for the first year of the Commission's work. This will depend upon the costs of task force research studies presently planned.

COMMISSION ON THE ORGANIZATION OF THE GOVERNMENT

FOR THE CONDUCT OF FOREIGN POLICY

1973 Appropriation	\$ 200,000
1974 Budget amendment requested (S. Doc. 93-24)	1,100,000

Appropriation language requested:

For necessary expenses of the Commission on the Organization of the Government for the Conduct of Foreign Policy, authorized by Title VI of the Foreign Relations Authorization Act of 1972, [\$200,000]  
\$1,100,000 of which not to exceed \$6,000 may be expended for official reception and representation expenses.

(Supplemental Appropriations Act, 1973)

Commission on the Organization of the Government  
for the Conduct of Foreign Policy

Full-time permanent staff positions  
(23 positions) and salaries:

Grade

GS-18	Executive Director	\$ 36,000
GS-18	Deputy Director	36,000
GS-18	General Counsel	36,000
GS-16	Foreign Affairs Specialist	31,203
GS-16	Research Director	31,203
GS-16	Writer	31,203
GS-15	Foreign Affairs Specialist	26,898
GS-15	Foreign Affairs Specialist	26,898
GS-15	Foreign Affairs Specialist	26,898
GS-13	Administrative Assistant	19,700
GS-13	Assistant to General Counsel	19,700
GS-13	Research Assistant	19,700
GS-13	Research Assistant	19,700
GS-12	Administrative Officer	16,682
GS-12	Documents Librarian	16,682
GS-11	Secretary to Executive Director	13,996
GS-11	Staff Assistant	13,996
GS-9	Secretary to Deputy Director	11,614
GS-9	Secretary to General Counsel	11,614
GS-7	Secretary-Steno	9,520
GS-6	Secretary Steno	8,572
GS-6	Secretary Steno	8,572
GS-6	Driver/Xerox	8,572
	Total Staff Salaries	\$480,923



#### GENERAL STATEMENT

Senator PASTORE. The hour of 9 having been reached and having as our witnesses some pleasing and distinguished people, I think we ought to start. The Chair will now recognize our distinguished Majority Leader Mike Mansfield who is not only a great American but a good friend. You may now proceed.

Senator MANSFIELD. Thank you. Mr. Chairman and members of the subcommittee, along with Senator Pearson and Senator Spong, I am pleased to appear before you today in support of the budget request submitted to this subcommittee for an appropriation for fiscal year 1974 for the Commission on the Organization of the Government for the Conduct of Foreign Policy. We appear at the request of its Chairman, Ambassador Robert Murphy.

The Commission on the Organization of the Government for the Conduct of Foreign Policy had its inception in July of 1972 as part of the Foreign Relations Authorization Act of 1972. Legislation sponsoring such a Commission was proposed by Senators Fulbright and Aiken and, I might add, incidentally, by Senator Spong and Senator Pearson at that time.

While appointments from the Senate and the House were made in 1972, the four Presidential appointments were not completed until March of this year. The Commission had an organizational meeting on April the 16th and elected Ambassador Murphy as its Chairman. An Executive Director and General Counsel were selected and the Commission began operations in May. The Commission has met in May and June, is scheduled to meet again on July the 30th, and presently has a staff of 11 persons.

In 1972, the Senate approved \$1 million for fiscal year 1973 for the work of this Commission. The House later reduced this sum to \$200,000 when it became apparent that the Commission would not be in operation until late in the fiscal year. The sum of \$1,100,000 requested for fiscal year 1974 was amended after a review of the 1973 request and consultation with the General Services Administration and the Office of Management and Budget.

#### COMMISSION MANDATE

We believe the mandate given this Commission by Congress is much broader than previous foreign policy studies. The Commission is directed to study and investigate the organization, methods of operation, and powers of all departments, agencies, independent establishments, and instrumentalities of the U.S. Government participating in the formulation and implementation of United States foreign policy.

Senator PASTORE. Is it your opinion that in due time we will have an American desk in the State Department? We have a European desk and an Asian desk, but for some reason, America is being neglected. I would hope we would end up with an American desk in the State Department as a result of this Commission's work.

Senator MANSFIELD. I would agree, Mr. Chairman. I think that desk is long overdue and should have been in effect since the founding of the republic.

This mandate directs the Commission to go beyond traditional foreign policy studies which, heretofore, have principally concerned the State Department, Agency for International Development, and the U.S. Information Agency.

This Commission is required to study all departments, agencies, independent establishments and instrumentalities of the U.S. Government participating in the formulation and implementation of U.S. foreign policy. There are more than forty such departments and agencies.

The law establishing the Commission has been interpreted to include an analysis of the organization of Congress for foreign policy decisionmaking and implementation and, also, to make recommendations for more effective arrangements between the Congress and the executive branch for the conduct of foreign policy.

The budget contemplates a permanent staff of 23 persons. A large part of the research in problem areas that cut across departments and agency structures will probably be done by independent task forces. This research is provided for in the budget. Also, money is budgeted for visits by Commission members to overseas missions.

It is believed that the budget request for \$1,100,000 is a reasonable estimate of funds required for the first year of the Commission's operation during fiscal year 1974. Whether this sum is adequate will, in large measure, depend upon the costs of the task force research studies presently being planned.

#### FOREIGN POLICY VS DOMESTIC POLICY

Mr. Chairman, today, foreign policy is becoming increasingly difficult to isolate from domestic policy. Overseas problems concerning our economy, our environment, our security, trade relations and international monetary policy now touch upon the lives of many more Americans.

Moreover, solutions to these problems can no longer be sought by traditional methods. World environment today is vastly different from that of just a few years ago. It is an environment that presages an increasingly interdependent world of multilateral diplomacy.

Congress has asked this Commission to determine if the present proliferation of responsibility in our own government can be reorganized to formulate and implement an effective foreign policy in such a world. This is an enormous task.

We hope it will be the pleasure of this subcommittee to approve this request for funds to assure that this vast study can begin, with its members and staff assured of sufficient funding for the first year of a challenging task.

#### PUBLIC LAW 92-352

Mr. Chairman, I ask unanimous consent that a copy of Public Law 92-352 be incorporated at this point and, also, a copy of the amended budget which was forwarded to both Senator Pearson and myself by Francis O. Wilcox, Executive Director of the Commission.

Senator PASTORE. The justification has already been inserted in the record. I will include the public law at this point.

[The document follows:]

Public Law 92-352  
92nd Congress, H. R. 14734  
July 13, 1972

## An Act

To provide authorizations for certain agencies conducting the foreign relations of the United States, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Foreign Relations Authorization Act of 1972".*

Foreign Relations  
Authorization Act of  
1972.

### TITLE VI—STUDY COMMISSION RELATING TO FOREIGN POLICY

#### FINDINGS AND PURPOSE

SEC. 601. It is the purpose of this title to establish a study commission which will submit findings and recommendations to provide a more effective system for the formulation and implementation of the Nation's foreign policy.

#### COMMISSION ON THE ORGANIZATION OF THE GOVERNMENT FOR THE CONDUCT OF FOREIGN POLICY

SEC. 602. (a) To carry out the purpose of section 601 of this Act, there is established a Commission on the Organization of the Government for the Conduct of Foreign Policy (hereafter referred to in this title as the "Commission").

(b) The Commission shall be composed of the following twelve members:

(1) four members appointed by the President, two from the executive branch of the Government and two from private life;

(2) four members appointed by the President of the Senate, two from the Senate (one from each of the two major political parties) and two from private life; and

(3) four members appointed by the Speaker of the House of Representatives, two from the House of Representatives (one from each of the two major political parties) and two from private life.

(c) The Commission shall elect a Chairman and a Vice Chairman from among its members.

(d) Seven members of the Commission shall constitute a quorum. Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner in which the original appointment was made.

(e) Each member of the Commission who is not otherwise employed by the United States Government shall receive \$145 a day (including traveltime) during which he is engaged in the actual performance of his duties as a member of the Commission. A member of the Commission who is an officer or employee of the United States Government shall serve without additional compensation. All members of the Commission shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in the performance of their duties.

Compensation.

#### DUTIES OF THE COMMISSION

SEC. 603. (a) The Commission shall study and investigate the organization, methods of operation, and powers of all departments, agen-

(as defined by the Comprehensive Drug Abuse Prevention and Control Act of 1970) produced or processed, in whole or in part, in such country, or transported through such country, from being sold illegally within the jurisdiction of such country to United States Government personnel or their dependents, or from entering the United States unlawfully. Such suspension shall continue until the President determines that the government of such country has taken adequate steps to carry out the purposes of this chapter.

86 STAT. 498

(1) the reorganization of the departments, agencies, independent establishments, and instrumentalities of the executive branch participating in foreign policy matters;

(2) more effective arrangements between the executive branch and Congress, which will better enable each to carry out its constitutional responsibilities;

(3) improved procedures among departments, agencies, independent establishments, and instrumentalities of the United States Government to provide improved coordination and control with respect to the conduct of foreign policy;

(4) the abolition of services, activities, and functions not necessary to the efficient conduct of foreign policy; and

(5) other measures to promote peace, economy, efficiency, and improved administration of foreign policy.

Report to  
Congress;  
termination.

(b) The Commission shall submit a comprehensive report to the President and Congress, not later than June 30, 1974, containing the findings and recommendations of the Commission with respect to its study and investigation. Such recommendations may include proposed constitutional amendments, legislation, and administrative actions the Commission considers appropriate in carrying out its duties. The Commission shall cease to exist on the thirtieth day after the date on which it files the comprehensive report under this subsection.

now  
1975

#### POWERS OF THE COMMISSION

Hearings.

Subpenas.

SEC. 604. (a) The Commission or, on the authorization of the Commission, any subcommittee or member thereof, may, for the purpose of carrying out the provisions of this title, hold such hearings and sit and act at such times and places, administer such oaths, and require, by subpoena or otherwise, the attendance and testimony of such witnesses and the production of such books, records, correspondence, memorandums, papers, and documents as the Commission or such subcommittee or member may deem advisable. Subpenas may be issued under the signature of the Chairman of the Commission, of any such subcommittee, or any designated member, and may be served by any person designated by such Chairman or member. The provisions of sections 102 through 104 of the Revised Statutes of the United States (2 U.S.C. 192-194) shall apply in the case of any failure of any witness to comply with any subpoena or to testify when summoned under authority of this section.

(b) The Commission is authorized to secure directly from any executive department, bureau, agency, board, commission, office, independent establishment, or instrumentality information, suggestions, estimates, and statistics for the purposes of this title. Each such department, bureau, agency, board, commission, office, establishment, or instrumentality is authorized and directed, to the extent authorized by law, to furnish such information, suggestions, estimates, and statistics directly to the Commission, upon request made by the Chairman or Vice Chairman.

STAFF OF THE COMMISSION

Sec. 605. (a) The Commission shall have power to appoint and fix the compensation of such personnel as it deems advisable, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

80 Stat. 378.  
5 USC 101 et  
seq.  
5 USC 5101,  
5331.

(b) The Commission is authorized to procure the services of experts and consultants in accordance with section 3109 of title 5, United States Code, but at rates not to exceed the daily rate paid a person occupying a position at GS-18.

86 STAT. 499  
80 Stat. 416.

EXPENSES OF THE COMMISSION

Sec. 606. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this title.

Approved July 13, 1972.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 92-1047 (Comm. on Foreign Affairs) and No. 92-1145 (Comm. of Conference).

SENATE REPORT No. 92-754 accompanying S. 3526 (Comm. on Foreign Relations).

CONGRESSIONAL RECORD, Vol. 118 (1972):

May 17, considered and passed House.

Apr. 28, May 1, 3, 5, 9, 10, 15-18, 24, 25, 30, 31, considered and passed Senate, amended, in lieu of S. 3526.

June 28, House agreed to conference report.

June 30, Senate agreed to conference report.



FULL STAFFING

Senator PASTORE. I want to ask one question. Do we have a full complement now?

Senator MANSFIELD. We have a full complement now. The total number is 12. I suspect the reason the Commission is so late in getting started is because both the House and the Senate made their appointments during the third quarter of last year. It was not until March of this year that the executive branch made its appointments.

Senator PASTORE. Thank you very much. Do you have any questions?

Senator HRUSKA. I have no questions.

Senator PASTORE. Now I will hear from my distinguished colleague, Mr. Pearson.

Senator PEARSON. Mr. Chairman, I do not think I have any statement other than that made by Senator Mansfield. I would say you have, under date of July 5, the documents offered for the record by Senator Mansfield and, in response to your single question to him, there is listed there the members of the Commission.

Senator PASTORE. There are no vacancies at the present time?

Senator PEARSON. That is correct.

Senator PASTORE. Senator Spong.

Mr. SPONG. I have nothing to add, Mr. Chairman. I am, presently, the General Counsel of this Commission, and I will be pleased to answer any additional questions you may have, or Senator Hruska.

PROGRESS TO DATE

Senator PASTORE. How much progress have you made thus far?

Mr. SPONG. We have had three meetings. We have one scheduled for the end of this month. We expect on July 30, with the help of Senators Mansfield and Pearson, to adopt a complete program of study for the next 2 years.

I would say we are now organized and awaiting assurance of adequate funding before we go forward.

Senator PASTORE. And about how much of the task force will operate under a contract relationship with the Commission?

Mr. SPONG. I would say about half will be done through independent research. And what I would call the institutional part of the study, department by department, will be done by the Commission with the core staff of about 23 positions.

Senator PASTORE. No you have any questions?

DATE FOR REPORTING TO THE PRESIDENT

Senator HRUSKA. Mr. Chairman, I notice the statute says that the Commission shall submit a comprehensive report to the President not later than June 30, 1974.

The statement that we have here from Mr. Wilcox indicates the report of the Commission is to be submitted on June 30, 1975. There is a discrepancy. Is there some explanation for that?

Mr. SPONG. Yes. In its organization meeting in April, the Commission asked Senators Mansfield and Pearson if they would amend the State authorization bill, which was done. It has passed the Senate.

The last I knew, it was in conference. But legislation has been enacted and is in process, extending the reporting date to June 30, 1975.

Senator MANSFIELD. If I may add, Senator Hruska, the reason is that we were unable to get started as soon as we had intended to.

Senator HRUSKA. I am not criticizing it, but merely calling the chairman's attention to the discrepancy. If it will be amended, of course, that will take care of it.

#### FEDERAL ADVISORY COMMITTEE ACT

One other thing. Last November, I believe there became effective into law, the law governing commissions' forces, agencies and so forth. Is this commission subject to that act?

Mr. SPONG. We have obtained an opinion from the Comptroller General which says that this is a congressional commission primarily having been formulated subject to resolution from the Congress and that it does not come under the provisions of that act.

Senator HRUSKA. Have we a copy of that?

Mr. SPONG. I will be glad to submit it to you for the record. I do not have one with me. Senator Pearson obtained it.

Senator HRUSKA. What makes it a congressional commission? The fact that it has a predominance of congressional members?

#### ADVISORY OPINION

Mr. SPONG. No. I think that the Comptroller General based his opinion upon two things: one, the legislative history at the time that the Advisory Commission Act was enacted, which excluded several congressional commissions; and the fact that this commission is directed to report back to the Congress, I think they make a distinction between many advisory commissions which report directly to the executive branch. This one does report to the President, but it also reports to the Congress, and I will submit for the record that advisory opinion.

Senator HRUSKA. That would be helpful. If you did not have that, I was going to ask whether you felt it ought to be exempted because of the presence on the commission of Members of the Congress and that takes care of that protection of the interests of Congress and others.

Mr. SPONG. At the last meeting, I advised the commission that consideration should be given to an exclusion if the opinion was not upheld.

Senator HRUSKA. Thank you.  
[The document follows:]

COMMISSION ON THE ORGANIZATION OF THE GOVERNMENT  
FOR THE CONDUCT OF FOREIGN POLICY  
2025 M STREET, N.W.  
WASHINGTON, D.C. 20506

July 12, 1973

Honorable John O. Pastore  
Chairman, Subcommittee for  
Departments of State, Justice,  
Commerce, the Judiciary and  
Related Agencies  
Committee on Appropriations  
United States Senate  
Washington, D. C. 20510

Dear Mr. Chairman:

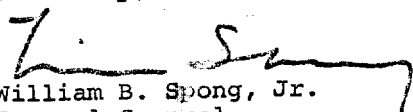
At this morning's hearing on the budget request on the Commission on the Organization of the Government for the Conduct of Foreign Policy, Senator Hruska questioned whether the Commission is subject to the provisions of P.L. 92-463, cited as the "Federal Advisory Committee Act".

In my reply I mentioned an opinion received by Senator Pearson from the Comptroller General of the United States, stating that in the view of the Comptroller, the Commission is not subject to the provisions of the Federal Advisory Committee Act.

I am enclosing herewith a copy of that opinion in order that it might be placed in the hearing record as requested by Senator Hruska.

Allow me to thank you for your courtesies this morning.

Sincerely,

  
William B. Spong, Jr.  
General Counsel



COMPTROLLER GENERAL OF THE UNITED STATES  
WASHINGTON, D.C. 20548

April 26, 1973

The Honorable James B. Pearson  
United States Senate

Dear Senator Pearson:

This is in reply to your letter of March 27, 1973, in which, as a member of the Commission on the Organization of the Government for the Conduct of Foreign Policy established by the Foreign Relations Authorization Act of 1972, Pub. L. 92-352, 86 Stat. 489, approved July 13, 1972, you request that you and the other members of the Commission be advised as to whether the Commission must meet the provisions of the Federal Advisory Committee Act, Pub. L. 92-463, 86 Stat. 770, approved October 6, 1970.

Section 3 of the Federal Advisory Committee Act provides:

Sec. 3. For the purpose of this Act--

(1) The term "Director" means the Director of the Office of Management and Budget.

(2) The term "advisory committee" means any committee, board, commission, council, conference, panel, task force, or other similar group, or any subcommittee or other subgroup thereof (hereafter in this paragraph referred to as "committee"), which is--

- (A) established by statute or reorganization plan, or
- (B) established or utilized by the President, or
- (C) established or utilized by one or more agencies,

in the interest of obtaining advice or recommendations for the President or one or more agencies or officers of the Federal Government, except that such term excludes (i) the Advisory Commission on Intergovernmental Relations, (ii) the Commission on Government Procurement, and (iii) any committee which is composed wholly of full-time officers or employees of the Federal Government.

(3) The term "agency" has the same meaning as in section 551(1) of title 5, United States Code.

(4) The term "Presidential advisory committee" means an advisory committee which advises the President.

Title VI of the Foreign Relations Authorization Act of 1972 provides in part--

TITLE VI--STUDY COMMISSION RELATING TO FOREIGN POLICY

FINDINGS AND PURPOSE

Sec. 601. It is the purpose of this title to establish a study commission which will submit findings and recommendations to provide a more effective system for the formulation and implementation of the Nation's foreign policy.

\* \* \* \* \*

DUTIES OF THE COMMISSION

Sec. 603. (a) The Commission shall study and investigate the organization, methods of operation, and powers of all departments, agencies, independent establishments, and instrumentalities of the United States Government participating in the formulation and implementation of United States foreign policy and shall make recommendations which the Commission considers appropriate to provide improved governmental processes and programs in the formulation and implementation of such policy, including, but not limited to, recommendations with respect to--

- (1) the reorganization of the departments, agencies, independent establishments, and instrumentalities of the executive branch participating in foreign policy matters;
- (2) more effective arrangements between the executive branch and Congress, which will better enable each to carry out its constitutional responsibilities;
- (3) improved procedures among departments, agencies, independent establishments, and instrumentalities of the United States Government to provide improved coordination and control with respect to the conduct of foreign policy;
- (4) the abolition of services, activities, and functions not necessary to the efficient conduct of foreign policy; and
- (5) other measures to promote peace, economy, efficiency, and improved administration of foreign policy.

(b) The Commission shall submit a comprehensive report to the President and Congress, not later than June 30, 1974, containing the findings and recommendations of the Commission with respect to its study and investigation. Such recommendations may include proposed constitutional amendments, legislation, and administrative actions the Commission considers appropriate in carrying out its duties. The Commission shall cease to exist on the thirtieth day after the date on which it files the comprehensive report under this subsection. (Underscoring supplied.)

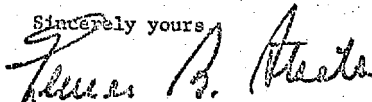
In addressing this matter there is for consideration the provisions of section 2(a) of the Federal Advisory Committee Act, which, make it quite clear that the main focus of the act was advisory committees in the executive branch of the Government. It states:

Sec. 2. (a) The Congress finds that there are numerous committees, boards, commissions, councils, and similar groups which have been established to advise officers and agencies in the executive branch of the Federal Government and that they are frequently a useful and beneficial means of furnishing expert advice, ideas, and diverse opinions to the Federal Government.

The Commission involved here is composed of twelve members, four appointed by the President, two from the executive branch of the Government; four appointed by the President of the Senate, two from the Senate; and four appointed by the Speaker of the House of Representatives, two from the House of Representatives. The Commission was created not only to advise and make recommendations to an officer in the executive branch (the President) but also to advise and make recommendations to the Congress, and under section 603(b) it must submit its report to both. It also terminates by operation of law. The legislative history of the Federal Advisory Committee Act discloses that the earlier versions of the bills which resulted in such act specifically included advisory committees established or organized to advise and make recommendations to the Congress but these references to the Congress were deleted before final passage. Thus, it would appear that the Congress did not intend to make advisory committees established by law for the purpose of advising and making recommendations to the Congress to be subject to the Federal Advisory Committee Act. The fact that the law requires that a commission also submit a report to the President does not, in our opinion, require a contrary conclusion.

Accordingly, it is our view that the Commission on the Organization of the Government for the Conduct of Foreign Policy, established by the Foreign Relations Authorization Act of 1972 is not subject to the provisions of the Federal Advisory Committee Act.

Sincerely yours,



Comptroller General  
of the United States

LETTER FROM SENATOR PEARSON

Senator PEARSON. Mr. Chairman, we would suggest that the subcommittee's report emphasize that this commission is not subject to the Federal Advisory Committee Act. I will send you a formal request that this be done.

Senator PASTORE. We will include your letter in the record.  
[The letter follows:]

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**United States Senate**

COMMITTEE ON FOREIGN RELATIONS  
WASHINGTON, D.C. 20510

July 13, 1973

The Honorable John O. Pastore, Chairman  
Subcommittee for the Departments of State,  
Justice, the Judiciary and Related Agencies  
Committee on Appropriations  
United States Senate  
Washington, D. C.

Dear John:

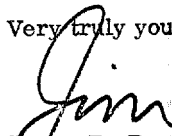
As you may recall, at the July 12 hearings of the Subcommittee for the Departments of State, Justice, the Judiciary and Related Agencies, we discussed the applicability of the Federal Advisory Committee Act (P. L. 92-463) to the Commission on the Organization of the Government for the Conduct of Foreign Policy. Subsequently, William Spong, General Counsel to the Commission, submitted for the record a copy of an opinion by the Comptroller General in which he states that in the opinion of the GAO, the Act does not apply to the Commission.

As Vice Chairman of the Commission, I believe, and Senator Mansfield concurs, that in order to avoid problems of interpretation of the applicability of the Advisory Committee Act to the Commission, it would be helpful if your Subcommittee's report on the appropriations request of the Commission contained language indicating that it is your Subcommittee's understanding that P. L. 92-463 does not apply to the Foreign Policy Commission.

Thank you for your courtesy at the hearings. If you have any questions, I will be more than willing to discuss them with you.

With kind personal regards.

Very truly yours,



James B. Pearson  
United States Senator

COMMISSION CREATED BY ACT OF CONGRESS

Senator PASTORE. It remains though that this Commission was not created by general commission. It was enacted by Congress, signed by the President, and, therefore, you do have a partnership between the executive and the legislative branches in order to bring about an organization of our foreign policy.

Mr. Spong. That is true.

Senator PASTORE. Any further questions?

We want to thank you gentlemen very much.

Senator MANSFIELD. Thank you, Mr. Chairman.

Senator PASTORE. Thank you, to the three of you.

STATEMENT OF SENATOR J. W. FULBRIGHT

Before concluding, I will insert in the record a statement submitted by Senator J.W. Fulbright, chairman of the Senate Foreign Relations Committee, in support of the full budget estimate of \$1,100,000 for the Commission on the Organization of the Government for the Conduct of Foreign Policy.

[The statement follows:]

Mr. Chairman, this request will enable a distinguished group of citizens chosen from the public, the legislative branch, and the Executive Branch to carry on a much needed examination of the means by which this Government formulates and conducts its foreign policy.

The Commission was created by the Congress in 1972 as the result of a proposal made by Senator Aiken and me. Our proposal grew out of a careful Foreign Relations Committee examination of the foreign policy mechanisms of this Government which we found to be in considerable disarray.

After a slow start, the Commission is now organized and ready to do business. Its General Counsel is our former colleague, Senator William B. Spong, Jr. Its members include Senators Mansfield and Pearson.

I hope very much that the full amount requested will be appropriated and, in support of that proposition, can do no better than to include in these remarks the following paragraphs from the original report on this legislation. These quotations are from Report No. 92-754:

"The results of the Committee's study this year make it apparent that the present foreign policy machinery does not serve the Executive Branch, Congress, or the public, which pays the bills. The Committee has concluded that, since the problem of creating a more effective system for the making and conduct of foreign policy cuts across so many lines within both the Executive Branch and the Congress, the only effective approach is through a high-level study commission. The proposal for such a study commission was made to the Committee through the joint, bipartisan efforts of Senators Fulbright and Aiken. Senator Aiken had served on the original Hoover Commission and his cosponsor of the proposal was particularly reassuring with respect to the need for such a study commission at this time. The Committee adopted the Fulbright-Aiken proposal unanimously.

"In the period since World War II the number of agencies involved in foreign policy matters has proliferated greatly. Of the 21,814 U.S. civilian employees serving overseas on December 31, 1971, only 3,409 are engaged in regular State Department activities. The activities abroad of a number of the agencies with deep involvement in foreign policy, such as the CIA and the Department of Defense, are carried on without effective Congressional oversight or control from the standpoint of their impact on foreign policy."

The Committee recommendation for creation of the Commission would have the Congress make the following statement concerning this state of affairs:

The Congress finds that during the last quarter of a century there has been a proliferation of agencies of the United States Government with respect to the formulation, management, and conduct of, and the collection of information

relating to, the Nation's foreign policy. This proliferation has resulted in the diminution of both the President's and the Congress' respective powers with respect to the formulation and implementation of foreign policy, the less effective coordination and control of such policy, the distortion of traditional policy-making processes, and the waste of the taxpayers' money through overlapping of functions and duplication of effort. It is the purpose of this act to establish a study commission which will submit findings and recommendations to provide a more effective system for the formulation and implementation of the Nation's foreign policy."

There has not only been a proliferation of agencies directly involved in foreign affairs, but there has been a corresponding growth in the amount of input in the policy-making process by non-foreign affairs agencies. For example, the Treasury Department, through control of our balance of payments, import and international development bank policies, has a great impact on foreign policy generally. Through Public Law 480, the Agriculture Department has a significant voice in the foreign aid program. And on down the government organization chart. The following list of agencies with interests in international economic affairs and the number of personnel and the costs devoted by each to looking after its interests in the field of foreign economic policy reveals the multiplicity of interests involved throughout the Executive Branch:

AGENCIES WITH INTERESTS IN INTERNATIONAL ECONOMIC POLICY

	Full-time employees in permanent positions June 30, 1971	Obligations incurred in fiscal year ending June 30, 1971
Atomic Energy Commission, Division of International Activities.....	84	\$1,400,000
Civil Aeronautics Board, International Economic Affairs.....	58	1,115,000
Council on International Economic Policy.....	129	1,130,000
Export-import bank.....	358	2,912,221,000
Federal Reserve Board: Division of International Finance.....	75	1,479,000
Overseas Private Investment Corporation.....	127	1,488,000
Special Representative for Trade Negotiations.....	30	633,000
Tariff Commission.....	248	4,452,000
Departments of:		
Agriculture:		
Public Law 480.....		702,500,000
Foreign Agricultural Service.....	735	27,462,000
Export Marketing Service.....	189	3,684,000
Foreign Economic Development Service.....	111	6,004,000
Consumer & Marketing Service.....	7	196,000
Agricultural Research Service.....	48	1,303,000
Other.....	126	4,252,000
Commerce:		
Bureau of International Commerce.....	1,168	31,241,000
Office of Foreign Direct Investment.....	134	2,846,000
U.S. Travel Service.....	78	4,669,000
Bureau of Domestic Commerce.....	300	5,500,000
Social and Economic Statistics Administration.....	350	5,053,000
Interior:		
Oil Import Administration.....	19	403,000
Office of Oil and Gas.....	20	676,000
Labor: International Labor Affairs.....	31	518,000
State (overseas and domestic).....	2,308	38,187,000
[of which were foreign local employees].....	(1,176)	
Agency for International Development.....	13,477	1,995,803,000
Transportation: Office of International Programs.....	31	440,000
Treasury: Assistant Secretary for International Affairs.....	332	8,035,000

<sup>1</sup> Data are for fiscal year ending June 30, 1972.

Source: Department of State.

The interests within the Executive Branch on foreign policy issues are so broad and diverse that the traditional processes for decision-making no longer work. Most significant foreign political, military, and economic policy issues are decided through the systems set up under the National Security Council and the International Economic Policy Council, whose personnel refuse to appear before Congressional committees. A review of the legislative history of the National Security Act, which established the National Security Council, indicates that the Congress did not intend for the Council to become, as it has, the principal mechanism for the formation and direction of foreign policy. The National

Security Council was established to deal with national security matters, essentially military issues, not to run the nation's foreign policy. The International Economic Policy Council does not have a statutory base but was created by administrative action. Both of these organizations have grown in power and influence at the expense of Congress and the traditional policy-making processes.

Although the power of the NSC and the IEPC are increasing in the making and implementation of foreign policy, there is still no single focal point within the Executive Branch for the making of decisions relating to the use of resources by the foreign affairs agencies. The Office of Management and Budget does not weigh the proposed programs of the various agencies against each other. The Director of that office declined an invitation to testify as to the role of OMB in balancing priority demands of various agencies in the field of foreign policy. And there is no single place in the Executive Branch for the systematic establishment of priorities for use of our nation's resources for foreign policy purposes. And, in Congress, because of the number of committees involved in the authorization and appropriations processes, there is also no one focal point for Congressional oversight. In effect, the apparatus for foreign policy is like a bureaucratic no-man's land, with every agency pursuing, to a significant extent, its own objectives without effective control by either Congress or the Executive Branch.

Only a high-level study commission, as recommended by the Committee, can cut across all of the lines involved within both Congress and the Executive Branch and arrive at sound recommendations for creation of a more effective system. The Commission's mandate would be broad as can be seen from the following language:

Sec. 3. (a) The Commission shall study and investigate the organization, methods of operation, and powers of all departments, agencies, independent establishments, and instrumentalities of the United States Government participating in the formulation and implementation of United States foreign policy and shall make recommendations which the Commission considers appropriate to provide improved governmental processes and programs in the formulation and implementation of such policy, including, but not limited to, recommendations with respect to—

(1) the reorganization of the departments, agencies, independent establishments, and instrumentalities of the executive branch participating in foreign policy matters;

(2) more effective arrangements between the Executive Branch and Congress, which will better enable each to carry out its Constitutional responsibilities;

(3) improved procedures among departments, agencies, independent establishments, and instrumentalities of the United States Government to provide improved coordination and control with respect to the conduct of foreign policy;

(4) the abolition of services, activities, and functions not necessary to the efficient conduct of foreign policy; and

(5) other measures to promote economy, efficiency, and improved administration of foreign policy.

It is the Committee's intention that the Commission shall have the authority to study both programs and machinery of all agencies which have an impact on the making and conduct of foreign policy, including those not traditionally classified as foreign affairs agencies. The Committee expects the Commission to devote special attention to the problems of arrangements between Congress and the Executive Branch on foreign policy matters, including Congressional access to information, the availability of Executive Branch personnel to testify before committees, the impact of the security classification system on Congress, and other such problems. The Committee expects the Commission's study to be unhurried and in depth. It will be essential for the Commission to have adequate staff to conduct thorough investigations and analyses of the many complex issues involved. The Committee expects the Commission to seek out and find for the project the best talent the nation has to offer.

The Committee believes that this Commission, if it carries out the broad mandate provided, will lead to creation of a more effective system for the management of the nation's foreign affairs, which will redound to the ultimate benefit of Congress, the Executive Branch, and the American people.